

§ 535.310

(c) The filing fee for such agreements is described in § 535.401(f).

[50 FR 16703, Apr. 29, 1985. Redesignated at 52 FR 18697, May 19, 1987 and 53 FR 11073, Apr. 5, 1988; 59 FR 63908, Dec. 12, 1994; 61 FR 11574, Mar. 21, 1996; 64 FR 11242, Mar. 8, 1999]

§ 535.310 Marine terminal services agreements—exemption.

(a) *Marine terminal services agreement* means an agreement, contract, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and an ocean common carrier that applies to marine terminal services, including checking; dockage; free time; handling; heavy lift; loading and unloading; terminal storage; usage; wharfage; and wharf demurrage and including any marine terminal facilities which may be provided incidentally to such marine terminal services) that are provided to and paid for by an ocean common carrier. The term “marine terminal services agreement” does not include any agreement which conveys to the involved carrier any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or similar other arrangement for the use of marine terminal facilities or property.

(b) All marine terminal services agreements as defined in § 535.310(a) are exempt from the filing and waiting period requirements of sections 5 and 6 of the Shipping Act of 1984 and Part 535 of this chapter on condition that:

(1) They do not include rates, charges, rules and regulations which are determined through a marine terminal conference agreement, as defined in 46 CFR 535.307(b); and

(2) No antitrust immunity is conferred pursuant to section 7 of the Shipping Act of 1984, 46 U.S.C. app. 1706, with regard to terminal services provided to a common carrier by water under a marine terminal services agreement which is not filed with the Commission pursuant to the exemption provided by § 535.310(b).

(c) The filing fee for such agreements is described in § 535.401(f).

[57 FR 4583, Feb. 6, 1992, as amended at 59 FR 63908, Dec. 12, 1994; 64 FR 11242, Mar. 8, 1999]

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§ 535.311 Marine terminal facilities agreement—exemption.

(a) *Marine terminal facilities agreement* means any agreement between or among two or more marine terminal operators, or between one or more marine terminal operators and one or more ocean common carriers, to the extent that the agreement involves ocean transportation in the foreign commerce of the United States, which conveys to any of the involved parties any rights to operate any marine terminal facility by means of lease, license, permit, assignment, land rental, or other similar arrangement for the use of marine terminal facilities or property.

(b) All marine terminal facilities agreements as defined in § 535.311(a) are exempt from the filing and waiting period requirements of sections 5 and 6 of the Shipping Act of 1984 and this part 535.

(c) Copies of any and all marine terminal facilities agreements currently in effect shall be provided, by parties to such agreements, to any requesting party for a reasonable copying and mailing fee.

(d) The filing fee for such agreements is described in § 535.401(f).

[58 FR 5631, Jan. 22, 1993, as amended at 59 FR 63908, Dec. 12, 1994]

Subpart D—Filing of Agreements

§ 535.401 General requirements.

(a) All agreements (including oral agreements reduced to writing in accordance with the Act) subject to this part and filed with the Commission for review and disposition pursuant to section 6 of the Act, shall be submitted during regular business hours to the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Such filing shall consist of:

(1) A true copy and 7 additional copies of the filed agreement;

(2) Where required by this part, an original and five copies of the completed Information Form Referenced at subpart E of this part; and

(3) A letter of transmittal as described in paragraph (b) of this section.